

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JOHN WAYNE WHITE,	:	CIVIL NO. 1:CV-05-1992
Petitioner,	:	
	:	(Judge Kane)
v.	:	
	:	
RONNIE HOLT, WARDEN,	:	
Respondent	:	

MEMORANDUM

John Wayne White (“White”), filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. By Order dated November 28, 2005, the petition was denied. (Doc. 7). Presently pending is White’s motion for reconsideration pursuant to FED. R. CIV. P. 59(e). (Doc. 8). For the reasons set forth below, the motion will be denied.

A motion under Rule 59(e) is a “device to relitigate the original issue” decided by the district court, and used to allege legal error. Smith v. Evans, 853 F.2d 155, 158-59 (3d Cir. 1988) (citation omitted); see also Ortho Pharm. Corp. v. Amgen, Inc., 887 F.2d 460, 463 (3d Cir.1989). “A proper motion to alter or amend judgment ‘must rely on one of three major grounds: ‘(1) an intervening change in controlling law; (2) the availability of new evidence [not available previously]; [or], (3) the need to correct clear error [of law] or prevent manifest injustice.’” North River Ins. Co. v. Cigna Reinsurance Co., 52 F.2d 1194, 1218 (3d Cir. 1995) (citations omitted); see also Harsco Corp. v. Zlotnicki, 779 F.2d 906 (3d Cir. 1985). It is not a tool to re-litigate and reargue issues which have already been considered and disposed of by the court. Dodge v. Susquehanna Univ., 796 F. Supp. 829, 830 (M.D.Pa. 1992).

Essentially, White claims that the petition should be reconsidered because he is actually innocent. In so arguing, White wholly relies on case law which, as stated in the order of dismissal, he is unable to take advantage of because of the rules of retroactivity. (Doc. 7, pp. 5-6). It is clear

that White fails to set forth any of the three grounds that would warrant reconsideration. Rather, he simply sets forth the reasons why he disagrees with the Court's decision. The motion for reconsideration will therefore be denied.

AND NOW, this 13th day of July 2006, it is hereby **ORDERED** that White's motion for reconsideration pursuant to FED. R. CIV. P. 59(e) (Doc. 8) is **DENIED**.

S/ Yvette Kane
Yvette Kane
United States District Judge